COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.9.2005
COM(2005) 435 final

2005/0177 (ACC)
2005/0178 (AVC)

Proposal for a

**COUNCIL DECISION**

**on the signing by the European Community of the Energy Community Treaty**

Proposal for a

**COUNCIL DECISION**

**on the conclusion by the European Community of the Energy Community Treaty**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

The European Council in Thessaloniki in June 2003 endorsed "The Thessaloniki Agenda for the Western Balkans: moving towards European integration", which aims to further strengthen the privileged relations between the EU and the Western Balkans and in which the European Union encouraged the countries of the region to adopt a legally binding agreement extending the European Community energy market to South-East Europe.

In the Communication of 26 May 2003 from the Commission to the Council and the European Parliament on the Development of Energy Policy for the Enlarged European Union, its neighbours and Partner Countries, the Commission called for the creation of a real integrated energy market, free of any barriers, in the wider European area, including South-East Europe, promoting equivalent competitive conditions and high environmental standards.

In November 2002, at the Ministerial Meeting of the Athens Forum process, under the sponsorship the European Commission, the member countries of the South-East Europe electricity market signed a Memorandum of Understanding committing them to implement parallel rules to the Community provisions creating an internal electricity market in the area. In December 2003, the signing of a second Memorandum of Understanding, to which the European Community was a party, provided for the extension of the Athens Process to gas markets and confirmed the first Memorandum.

The Commission proposed in November 2002 a common strategy paper with the international donors active in South East Europe. The common strategy paper called for the creation of a regulatory framework enabling efficient financial assistance to the region. This common strategy has become the base for continued engagement by the international financial institutions.

The Republic of Bulgaria, Romania, the Republic of Turkey and the Republic of Croatia are Candidate Countries for accession to the European Union, and the former Yugoslav Republic of Macedonia has also applied for membership. The Copenhagen European Council in December 2002 confirmed the European perspective of the Republic of Albania, Bosnia and Herzegovina, and Serbia and Montenegro, as potential candidates to the accession of the European Union, and underlined the determination to support their efforts to move closer to the European Union.

In accordance with the Council Decision of 17 May 2004, the European Commission has negotiated a Treaty establishing an Energy Community with the Republic of Albania, the Republic of Bulgaria, Bosnia and Herzegovina, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Montenegro, Romania, the Republic of Serbia, the Republic of Turkey, and the United Nations Interim Administration Mission in Kosovo (pursuant to the United Nations Security Council Resolution 1244). The Treaty will strongly contribute to the achievement of the above objectives.

The Treaty will give a legally binding framework to the existing ongoing cooperation under the 2002 and 2003 Athens Memorandum of Understanding between the European Community and the countries of the region. The general substance of the Treaty was approved in December 2004 by all the parties to the Athens process, including the five Member States of the European Union involved. The Commission may propose a joint Declaration with the Council indicating that these Member States will have their interests protected

The Treaty creates an internal energy market between the European Community and the non-EU countries of the region, including mutual assistance and possibly a common external energy trade policy, a factor necessary for an internal market. It enables the setting up of a regulatory framework permitting the efficient operation of energy markets in the region, including for the EU countries of the region. It provides for the implementation of the relevant *acquis communautaire* on energy, environment, competition and renewables for the non-EU countries of the region. The Treaty and the Athens Process behind it provide for some regional level co-ordination in order to overcome entrenched state level political problems, including on issues of regulatory co-operation, investments, statistics and physical market co-ordination.

Through the creation of an area without internal frontiers for gas and electricity, the Treaty aims at promoting high levels of gas and electricity provision to all citizens based on public service obligations, and achieving economic and social progress and a high level of employment as well as a balanced and sustainable development.

Issues relating to employment and social impacts, including working conditions, and social dialogue, are being actively discussed and separate political commitments on these issues are to be sought in a complementary Memorandum of Understanding aiming at securing this social dimension which is an integral part of the internal market. Participation of the social partners, and other relevant stakeholders, in the development of this social dimension will be crucial.

Above all, the Treaty will be the first multilateral treaty ever signed in this region, and is integrating a specific and highly symbolic economic sector. It will attract investment by creating a stable regulatory and market framework, and enable the economic development and social stability of the region. In addition, it will enhance the European Union's security of supply by providing incentives to connect the Balkans to Caspian, North African and Middle East gas reserves, and end the network isolation of Greece.

In cooperation with international donors, the Treaty will enhance the coordination of financial aid to the region. The World Bank has, in this regard, announced the creation of an investment fund of $1.75 billion for the electricity and gas sectors of the region. The grant of the funds will be made conditional on compliance with the Treaty. The World Bank fund may be enhanced as the World Bank speculates that total investments necessary to achieve an EU level market are in the order of $20 billion. The EBRD has also included the Energy Community Treaty Process in its lending policies and has made several loans based on its overall ambitions. The aim is to minimise conditionality conflict amongst the financial donors.

The European Community will benefit from a veto right on all decisions to be adopted by the Energy Community. The impact on the European Community budget is very limited, as the budget of the Energy Community Treaty shall only cover the operational expenses of the Energy Community necessary for the functioning of its institutions.

The Commission is requested to approve

(1) the Decisions for Signature and Conclusion; and

(2) to approve the draft Joint Declaration from the Commission and Council

2005/0177 (ACC)

Proposal for a

# COUNCIL DECISION

## on the signing by the European Community of the Energy Community Treaty

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47 (2), 55, 83, 89, 95, 133 and 175 in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission[1],

Whereas:

(1) In accordance with Council Decision of 17 May 2004, the European Commission has negotiated a Treaty establishing an Energy Community with the Republic of Albania, the Republic of Bulgaria, Bosnia and Herzegovina, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Montenegro, Romania, the Republic of Serbia, the Republic of Turkey, and the United Nations Interim Administration Mission in Kosovo (pursuant to the United Nations Security Council Resolution 1244).

(2) Subject to its possible conclusion at a later stage, the Agreement initialled on 31 May 2005 should be signed on behalf of the European Community,

HAS DECIDED AS FOLLOWS:

*Article 1*

Subject to a possible conclusion at a later stage, the President of the Council is hereby authorised to designate the person or the persons empowered to sign the Energy Community Treaty on behalf of the European Community.

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[1] OJ C , , p. .

*Article 2*

This Decision shall be published in the Official Journal of the European Union.

Done at Brussels,

*For the Council*
*The President*

2005/0178 (AVC)

Proposal for a

**COUNCIL DECISION**

**on the conclusion by the European Community of the Energy Community Treaty**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Articles 47 paragraph 2, 55, 83, 89, 95, 133 and 175, and Article 300 paragraph 2 first subparagraph, first sentence in conjunction with paragraph 3 second subparagraph thereof,

Having regard to the proposal from the Commission[2],

Having regard to the assent of the European Parliament[3],

Whereas:

(1) In accordance with Council Decision of 17 May 2004, the European Commission has negotiated a Treaty establishing an Energy Community with the Republic of Albania, the Republic of Bulgaria, Bosnia and Herzegovina, the Republic of Croatia, the former Yugoslav Republic of Macedonia, the Republic of Montenegro, Romania, the Republic of Serbia, the Republic of Turkey, and the United Nations Interim Administration Mission in Kosovo (pursuant to the United Nations Security Council Resolution 1244).

(2) On [ ], in accordance with the Council decision of [ ], the Energy Community Treaty was signed on behalf of the Community.

(3) The Energy Community Treaty provides for the creation of an integrated market in natural gas and electricity which will create a stable regulatory and market framework capable of attracting investment in gas networks, power generation and transmission networks, so that all Parties have access to the stable and continuous gas and electricity supply that is essential for economic development and social stability. It enables the setting up of a regulatory framework permitting the efficient operation of energy markets in the region, including issues such as congestion management, cross border flows, power exchanges and others. It

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2 OJ C , , p. .

3 OJ C , , p. .

therefore aims at promoting high levels of gas and electricity provision to all citizens based on public service obligations, and achieving economic and social progress and a high level of employment.

(4) "The Thessaloniki Agenda for the Western Balkans: moving towards European integration", endorsed by the European Council in June 2003 aims at further strengthening the privileged relations between the European Union and the Western Balkans. By creating favourable economic conditions and imposing the implementation of the relevant *acquis communautaire*, the Energy Community Treaty contributes to the economic integration of the other contracting parties to the Treaty.

(5) The Energy Community Treaty enhances the security of supply of the parties to the Treaty by connecting Greece to the continental European Union gas and electricity markets, and providing incentives to connect the Balkans to the Caspian, North African and Middle East gas reserves.

(6) The Energy Community Treaty enables the development of energy market competition in a broader scale and the exploitation of economies of scale.

(7) The Energy Community Treaty improves the environmental situation in relation to gas and electricity, and promotes energy efficiency and renewable energy sources.

(8) The Treaty enables interested neighbouring third countries, in particular Moldova, the Kingdom of Norway, and Ukraine, to become parties or observers to the Energy Community.

(9) The Energy Community Treaty should therefore be approved.

(10) The Energy Community has autonomous decision-making powers. The European Community is represented by two representatives in the Ministerial Council and the Permanent High level Group set out by the Treaty. Appropriate rules and procedures must therefore be provided for organising, within the institutions of the Energy Community, the representation of the European Community, and the determination and expression of the European Community's position.

(11) For decisions of the Energy Community creating substantial obligations for the European Community the Council shall determine the position of the European Community in accordance with Article 300 (2) second subparagraph EC.

(12) The Member States directly affected by Title III have to play a crucial role in the implementation of the objectives of the Energy Community. It is therefore necessary, without prejudice to the relevant procedures of the EC Treaty, to acquire their active participation in the decision making process and their full support for the implementing measures that will be adopted under Title III.

(13) It is appropriate to lay down rules in which cases a representative of the Council of the European Union or of the European Commission shall express positions of the European Community.

(14) It is appropriate to lay down a specific procedure for the application of the internal revision clause provided for in Article 101(iii) of the Treaty,

HAS DECIDED AS FOLLOWS:

*Article 1*

1. The Treaty establishing the Energy Community is hereby approved on behalf of the European Community.

2. The text of the Energy Community Treaty is attached to this Decision.

*Article 2*

The President of the Council is hereby authorised to designate the person empowered to notify on behalf of the European Community the act of approval provided for in Article 1 to the Secretary-General of the Council acting as depositary for this Treaty pursuant to Article 106 thereof, in order to express the consent of the Community to be bound.

*Article 3*

(1) The European Community shall be represented in the Ministerial Council and the Permanent High Level Group set up under the Treaty by:

(a) a representative of the Council of the European Union designated by the Member State holding the Presidency of the Council of the European Union; and

(b) a designated representative of the European Commission.

(2) The Commission shall act as Vice President of the Ministerial Council and the Permanent High Level Group.

(3) The European Commission shall represent the European Community in the Regulatory Board and the Forum set up under the Treaty.

*Article 4*

(1) The position to be taken by the European Community within the Ministerial Council, the Permanent High Level Group and the Regulatory Board for decisions as defined in Article 76 second paragraph of the Treaty adopted by the Energy Community pursuant to Articles 82, 84, 91, 92, 96, and 100 of the Treaty, affecting the European Community, shall be adopted by the Council acting by a qualified majority on a proposal from the Commission.

(2) For decisions of the Energy Community falling under Title III of the Treaty, and applicable to the territory of one or several Member States, positions adopted under paragraph 1 shall not go beyond the Acquis communautaire.

(3) The European Parliament shall be immediately and fully informed of any decision of the Council under paragraph 1 above concerning the establishment of the Community position within the Ministerial Council, the Permanent High Level Group and the Regulatory Board.

(4) The positions of the European Community to be taken within the institutions of the Energy Community shall ensure that the Energy Community does not take any measure affecting the European Community that conflicts with any part of the Acquis communautaire, creates any discrimination between Member States or affects the competence of an EU Member State as regard the determination of the conditions for exploiting its energy resources, the choice between energy resources and the general structure of its energy supply.

(5) The positions of the European Community to be taken within the Regulatory Board shall be determined after the European Regulators Group for Electricity and Gas (ERGEG) has been consulted in accordance with Commission Decision of 11 November 2003 on establishing the European Regulators Group for Electricity and Gas (2003/796/EC).

*Article 5*

(1) The procedure set out in the two paragraphs below shall apply before a position can be taken by the European Community pursuant to Article 4(1) above for decisions adopted by the Energy Community pursuant to Article 100(iii) of the Treaty.

(2) Upon recommendation by the Commission, the Council, acting by a qualified majority, shall authorise the Commission to deliberate within the institutions of the Energy Community. The Commission shall conduct these deliberations in consultation with a special committee appointed by the Council to assist it in this task and within the framework of such directives as the Council may issue to it.

(3) The Council shall consult the European Parliament before adopting the position of the European Community.

*Article 6*

The positions of the European Community shall be expressed by the European Commission within the institutions of the Energy Community.

*Article 7*

This Decision shall be published in the *Official Journal of the European Union.*

Done at Brussels,

*For the Council*
*The President*

# FINANCIAL STATEMENT

*This document is intended to accompany and complement the Explanatory Memorandum. As such, when completing this Legislative Financial Statement, and without prejudice to its legibility, an attempt should be made to avoid repeating information contained in the Explanatory Memorandum. Before filling in this template, please refer to the specific Guidelines that have been drafted to provide guidance and clarification for the items below.*

## 1. NAME OF THE PROPOSAL

Proposal for the Treaty creating the Energy Community based on a Council Decision for a Negotiating Directive under Article 300 of 17 May 2004, the "Energy Community Treaty".

## 2. ABM / ABB FRAMEWORK

Policy Area(s) concerned and associated Activity/Activities:

06: Energy and Transport – Conventional energies

## 3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex-B..A lines)) including headings :

060403xx

(new budget line based on the treaty creating the Energy Community and extending the internal energy market – **to be financed under future Heading 4**)

NOTE: – action **to be administered by DG TREN , but intended to be financed under the DG ELARG Pre-accession instrument (IPA) , therefore– future Heading 4 'External policies' in the financial perspective**

3.2. Duration of the action and of the financial impact:

The Treaty itself will cover the period 2007 to 2016, whereas this Legislative Financial Statement covers the period 2007-2013. Towards the end of the period 2007-2013, a revised financial statement should be presented concerning the years 2014-2016.

In the years 2005 and 2006 the interim Energy Community Secretariat is paid under CARDS program.

3.3. Budgetary characteristics (*add rows if necessary*) :

| Budget line | Type of expenditure | | New | EFTA contribution | Contributions from applicant countries | Heading in financial perspective |
|---|---|---|---|---|---|---|
| 060403xx | Non-comp | Diff[4]/ [5] | YES | NO | YES | Future No [04] |
| | | | | | | |

## 4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

*EUR million (to 3 decimal places)*

| Expenditure type | Section no. | | Year n 2007 | n + 1 2008 | n + 2 2009 | n + 3 2010 | n + 4 2011 | n + 5 and later 2012+ 2013 | Total |
|---|---|---|---|---|---|---|---|---|---|
| **Operational expenditure[6]** | | | | | | | | | |
| Commitment Appropriations (CA) | 8.1 | a | 3,171 | 4,227 | 4,713 | 4,989 | 5,091 | 10,575 | 32,765 |
| Payment Appropriations (PA) | | b | 3,171 | 4,227 | 4,713 | 4,989 | 5,091 | 10,575 | 32,765 |
| **Administrative expenditure within reference amount[7]** | | | | | | | | | |
| Technical & administrative assistance (NDA) | 8.2.4 | c | 0,02 | 0,02 | 0,03 | 0,03 | 0,03 | 0,08 | 0,21 |

4 Differentiated appropriations
5 Non-differentiated appropriations hereafter referred to as NDA
6 Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.
7 Expenditure within article xx 01 04 of Title xx.

**TOTAL REFERENCE AMOUNT**

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| **Commitment Appropriations** | | **a+c** | **3,191** | **4,247** | **4,743** | **5,019** | **5,121** | **10,655** | **32,975** |
| **Payment Appropriations** | | **b+c** | **3,191** | **4,247** | **4,743** | **5,019** | **5,121** | **10,655** | **32,975** |

**Administrative expenditure not included in reference amount**[8]

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Human resources and associated expenditure (NDA) | 8.2.5 | d | 0,648 | 0,648 | 0,648 | 0,648 | 0,648 | 1,296 | 4,536 |
| Administrative costs, other than human resources and associated costs, not included in reference amount (NDA) | 8.2.6 | e | 0,080 | 0,080 | 0,080 | 0,080 | 0,080 | 0,16 | 0,563 |

## Total indicative financial cost of intervention

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| **TOTAL CA including cost of Human Resources** | | a+c +d+ e | 3,919 | 4,975 | 5,471 | 5,747 | 5,849 | 12,111 | 38,074 |
| **TOTAL PA including cost of Human Resources** | | b+c +d+ e | 3,919 | 4,975 | 5,471 | 5,747 | 5,849 | 12,111 | 38,074 |

## Co-financing details

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

*EUR million (to 3 decimal places)*

| Co-financing body (constant share over period as to Treaty) | | Year n | n + 1 | n + 2 | n + 3 | n + 4 | n + 5 and later | Total |
|---|---|---|---|---|---|---|---|---|
| …… | f | 0,306 | 0,408 | 0,455 | 0,481 | 0,491 | 1,021 | 3,162 |

[8] Expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

| Co-funding | | Year n (2007) | n+1 (2008) | n+2 (2009) | n+3 (2010) | n+4 (2011) | n+5 (2012 | n+6 (2013) | |
|---|---|---|---|---|---|---|---|---|---|
| **% as to Treaty** | | in mio € | | | | | | | **total/C** |
| Republic of Albania | 0,10% | 0,003 | 0,005 | 0,005 | 0,005 | 0,006 | 0,006 | 0,006 | **0,036** |
| Republic of Bulgaria | 1,00% | 0,035 | 0,046 | 0,052 | 0,055 | 0,056 | 0,057 | 0,059 | **0,359** |
| Bosnia and Herzegovina | 0,30% | 0,010 | 0,014 | 0,016 | 0,016 | 0,017 | 0,017 | 0,018 | **0,108** |
| Republic of Croatia | 0,50% | 0,017 | 0,023 | 0,026 | 0,027 | 0,028 | 0,029 | 0,029 | **0,180** |
| former Yugoslav Republic of Macedonia | 0,10% | 0,003 | 0,005 | 0,005 | 0,005 | 0,006 | 0,006 | 0,006 | **0,036** |
| Republic of Montenegro | 0,10% | 0,003 | 0,005 | 0,005 | 0,005 | 0,006 | 0,006 | 0,006 | **0,036** |
| Romania | 2,10% | 0,073 | 0,097 | 0,109 | 0,115 | 0,117 | 0,120 | 0,123 | **0,754** |
| Republic of Serbia | 0,70% | 0,024 | 0,032 | 0,036 | 0,038 | 0,039 | 0,040 | 0,041 | **0,251** |
| Republic of Turkey | 3,80% | 0,132 | 0,176 | 0,196 | 0,208 | 0,212 | 0,218 | 0,223 | **1,365** |
| UN Interim Administration Kosovo | 0,10% | 0,003 | 0,005 | 0,005 | 0,005 | 0,006 | 0,006 | 0,006 | **0,036** |
| **Total Co-funding** | 8,80% | **0,306** | **0,408** | **0,455** | **0,481** | **0,491** | **0,505** | **0,516** | **3,162** |

**Please note that the accession of Bulgaria and Romania will change the Co-funding pattern. According to current assumptions the share of the EC increases by 3,10%**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| TOTAL CA including co-financing | a+c +d+ e+f | 4,225 | 5,383 | 5,926 | 6,228 | 6,340 | 13,132 | 41,236 |

4.1.2. Compatibility with Financial Programming

☐ Proposal is compatible with existing financial programming.

☐ Proposal will entail reprogramming of the relevant heading in the financial perspective.

☐ Proposal may require application of the provisions of the Interinstitutional Agreement[9] (i.e. flexibility instrument or revision of the financial perspective

The proposal concerns the period 2007-2013 and the request for funding as detailed in point 4. will be covered by the future Pre-accession instrument (IPA).

4.1.3. Financial impact on Revenue

☒ Proposal has no financial implications on revenue

☐ Proposal has financial impact – the effect on revenue is as follows:

***NB: All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.***

EUR million (to one decimal place)

| | | Prior to action | Situation following action | | | | | |
|---|---|---|---|---|---|---|---|---|
| Budget line | Revenue | [Year n-1] | [Year n] | [n+1] | [n+2] | [n+3] | [n+4] | [n+5][10] |
| | *a) Revenue in absolute terms* | | | | | | | |
| | *b) Change in revenue* | Δ | | | | | | |

***(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)***

[9] See points 19 and 24 of the Interinstitutional agreement.

[10] Additional columns should be added if necessary i.e. if the duration of the action exceeds 6 years

4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

| **Annual requirements** | Year n | n + 1 | n + 2 | n + 3 | n + 4 | n + 5 and later |
|---|---|---|---|---|---|---|
| Total number of human resources | 6 | 6 | 6 | 6 | 6 | 12 |

## 5. CHARACTERISTICS AND OBJECTIVES

**Details of the context of the proposal are required in the Explanatory Memorandum. This section of the Legislative Financial Statement should include the following specific complementary information:**

5.1. Need to be met in the short or long term

The creation of the Energy Community by means of a binding treaty is a major initiative of the European Commission to prepare a smooth transition of pre-accession candidate countries having in mind a sectoral approach. It is an initiative of EC accession and neighbourhood policy, however limited to the energy sector.

The aim is to bring the signatory countries to comply with European standards and specific provisions of the acquis communautaire.

In that respect it is essential to guide the process intensively in the short as well as in the longer term (2007-2013) to ensure the respect of the compliance with commitments agreed and the safeguard of the European Community's interests.

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

The Community – and the Commission as the guardian of the Treaties and the arbiter of compliance with the *acquis communautaire* - involvement is a condition sine qua non and not only contributes to stabilising the region but also to enhance the European Community's possibility to secure security of supply on energy resources.

**Coherence with other financial instruments and possible synergies:**

The new Institutions can better co-ordinate the needs of the region with respect to energy. The Institutions have a detailed regional overview and a co-ordination role on all Donor's activities in that area, raising thus synergies and avoiding overlaps.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

**Objectives:**

- to establish a stable and reliable energy supply which is a precondition to economic growth in that area

- to ensuring EU access to gas resources in Middle East and the Caspian Area, enhancing diversity of supply and security of supply

- to increase environmental standards to EU acquis provisions

- to introduce sectoral provisions of the acquis communautaire and to create a larger single European energy market

- to foster investment climate and reduce regulatory risk in the area

**Operational objectives (cost allocation to activities):**

- to run the institutions effectuating the tasks attributed to them by the Treaty and indicatively depicted in the details' section below

- to organise and co-fund/reimburse larger meetings as the PHLG (Permanent High level group meetings), the Ministerial, the Fora (electricity and gas) if so decided under the Treaty provisions

**Details:**

1. The ENERGY COMMUNITY process

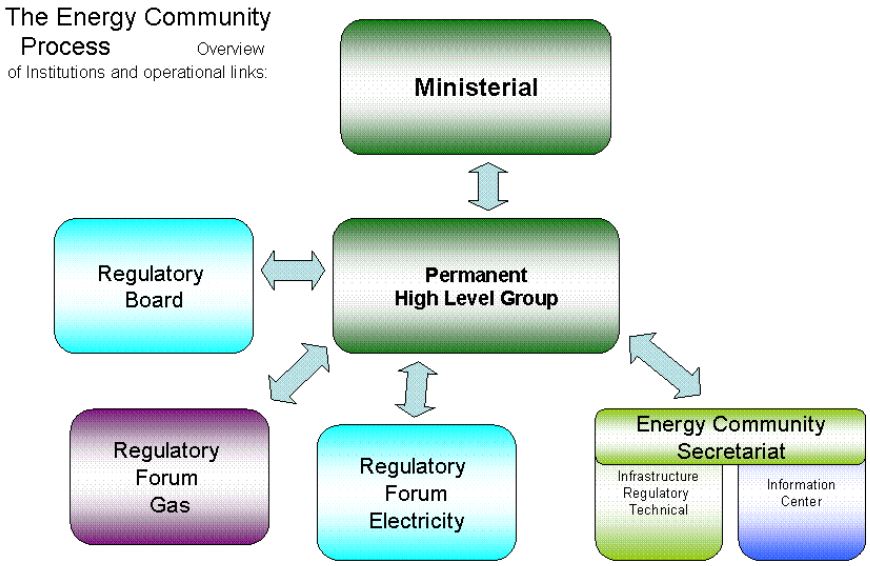
1.1. The Energy Community Process

The project of the creation of the Energy Community in South East Europe is a major step of European Union foreign policy with respect to the EC neighbouring countries. It is the first initiative where the European Union takes a sectoral approach to questions of trade and environment, to assist applying EU standards with a view to possible future accession. A stable and reliable energy supply is an important precondition for economic growth and prosperity.

This process, which already accomplished significant achievements with the signing of the Athens Memoranda 2002 and 2003 as well as the Tirana Declaration, was endorsed by the European Council by granting a negotiating directive to the European Commission with a view of establishing a binding treaty with the countries of the region. The treaty has been initialled recently and is likely to be signed in mid 2005.

This includes the CARDS countries (Albania, Bosnia & Herzegovina, Croatia, the FYROM, Serbia and Montenegro, the UNMIK) and the energy-wise linked neighbouring countries of Bulgaria, Romania and Turkey [NOTE: Turkey participation unclear].

Several institutions will be established by the Treaty (which are already in place from the stipulations of the Athens Memoranda), shadowing the institutions of the European Union as can be seen in the following graph:




*1.1.1. The ENERGY COMMUNITY Secretariat*

The purpose of the ENERGY COMMUNITY Secretariat is to assist the European Commission in its tasks to assure the ENERGY COMMUNITY process co-ordination on a daily basis and to serve as a monitoring institution.

To avoid any unclear interpretation of the purpose, the activity of the ENERGY COMMUNITY Secretariat does under no circumstances intervene with the task of the Commission to act as "the secretariat" to the institutions stipulated in the Memoranda and the draft treaty.

1.1.2. Overview - The tasks of the ENERGY COMMUNITY Secretariat

The tasks of the ENERGY COMMUNITY Secretariat stem from the obligations of the EC with respect to the stipulations of the Athens Memoranda (MOU) 2002 & 2003, the Tirana Declaration and the negotiating directive of the Council. In that sense and reflecting the negotiating directive of the Council as well as the initialled treaty, it is clear that the EC has substantive control over the work of the Secretariat. The detailed tasks follow the Annexe 2 of the EC ENERGY COMMUNITY strategy discussion paper, issued at the Athens Energy Week in June 2004. It is clear that when the treaty enters into force, the definitions and tasks therein and to be confirmed by procedural act under the terms of the Treaty itself are the base of work for the Secretariat.

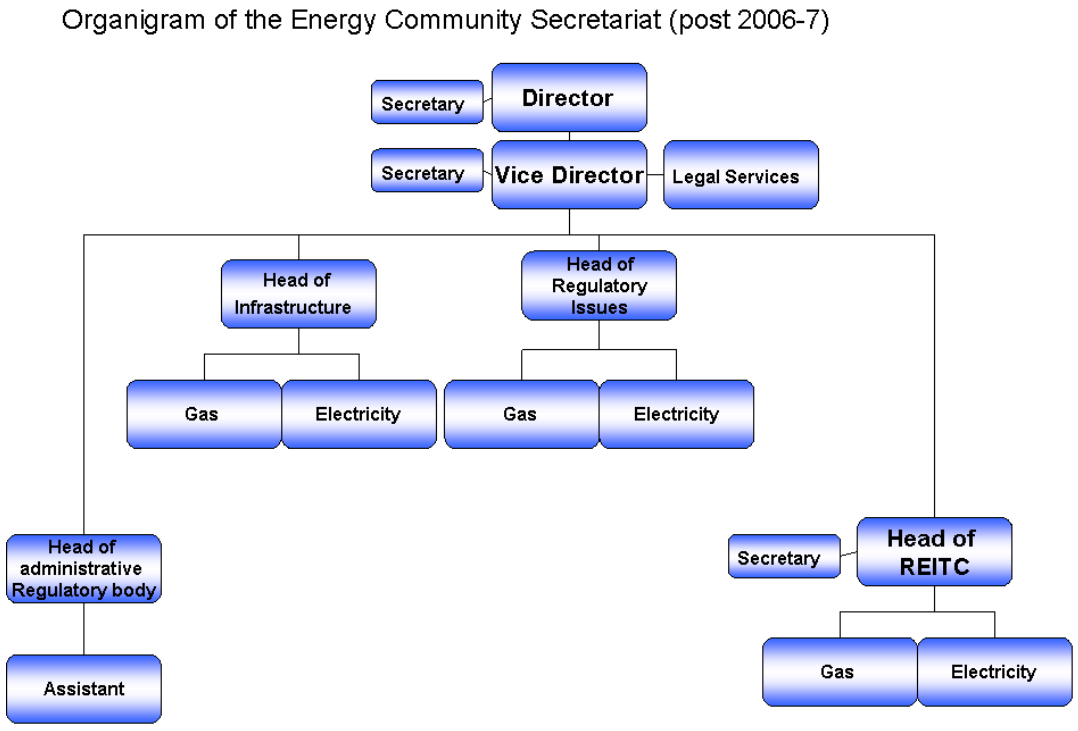
1.1.2.1. The ENERGY COMMUNITY Secretariat Structure

Given the work load attributed to the Secretariat and the estimated time necessary for the accomplishment of the aim of creating an Energy Community in South East Europe in line with the relevant provisions of the acquis communautaire, it is envisaged to set up a permanent structure, embracing the specific advantages of local know how and geographic synergies. In the period until the end of 2006, an interim Secretariat has been established in Vienna, the major part of which is funded under EC CARDS provisions. Being an interim Secretariat, the structure and budget are limited to set-up the process and to prepare for the entry into force of the treaty.

Thereafter, it is envisaged to build up the Secretariat as well as other institutions to cope with its tasks as currently envisaged in the Treaty.

The budget plan runs from 2007 to 2013. The likely duration of the treaty is until 2016, with a possible extension. The specific budget plan for 2014-16 will be presented in time and according to the exigencies then needed.

The chart below demonstrates a possible structure of the Secretariat:




To realise efficient cost management all tasks attributed to the Secretariat or any other Institution of the Treaty are administered via the Secretariat. The Secretariat re-distributes funds when entitled to do so. The financial auditing of the whole process can be assured and double or triple overhead costs avoided.

Some funds might be attributed to staff which will work most of the time on other locations than the Secretariat, supporting other Institutions mainly for administrative purposes.

1.2. Some assumptions for the Institutions in the ENERGY COMMUNITY process, other than the Secretariat

*1.2.1. Ministerial*

The ministerial is the decision making body of the process. It entitles other institutions to act. The venue of the Ministerial meetings will rotate. It is funded by the host, some co-funding is included in the forecast.

1.2.2. Permanent High Level Group

The Permanent High level group shadows the work of the Council Energy Working Group and gives guidance within their competence given by the ministerial. The PHLG organisation is co-funded.

1.2.3. Regulatory Board

The Regulatory Board might have secretarial services at its disposal. The Funds are dispatched via the Secretariat accounting system.

1.2.4. Regulatory Forum Electricity

The Regulatory Forum Electricity shadows the Florence Forum process. Roughly 50.000 € per year are foreseen from 2007 onwards (indexed)

1.2.5. Regulatory Forum Gas

The Regulatory Forum Gas shadows the Madrid Forum process. Roughly 50.000 € per year are foreseen from 2007 onwards (indexed)

2. The detailed tasks of the ENERGY COMMUNITY Secretariat Divisions

(according to annex 2, EC ENERGY COMMUNITY strategy discussion paper and interpreting the treaty on the creation of the energy community)

*The ENERGY COMMUNITY Regulatory Secretariat*

The tasks of the ENERGY COMMUNITY Regulatory Secretariat are the following:

**Regulation and Legislation:**

Operation of Treaty, Athens Memoranda 2002/2003

Benchmarking and Peer Review activities

Establishing of policy guidelines (road map to reform)

Monitoring of the implementation of the acquis (assist to establish state action plans,..)

Liaison with the Regulators

Aspects of granting derogations

Aspects of Inter TSO and transmission guidelines

Aspects of Market Design

**Donor Co-ordination**

Co-ordination of the donors' group (currently done by EC) with respect to legal and regulatory aspects

Act as an information clearing house of Donor's activities with respect to legal and regulatory aspects

*The ENERGY COMMUNITY Infrastructure Secretariat*

The tasks of the ENERGY COMMUNITY Infrastructure Secretariat are the following:

**Infrastructure Project Preparation and Infrastructure Identification:**

Assist the World Bank with respect to infrastructure investment funding

Prepare the project dossiers following an agreed methodology and in line with the World Bank APL (Advanced P Loans) Procedures.

Assist other Donors with respect to infrastructure investment funding activities

Prepare the project dossiers following an agreed methodology and in line with the donors' specific programs' rules and procedures.

On site evaluation of project feasibility

Evaluation of compliance with environmental standards, following the provisions of the acquis

Follow up and monitoring of compliance with environmental standards

Liaise with the responsible project managers of the projects' parent companies.

Follow-up project implementation, if accepted for realisation

Preparation of in-depth progress reports on each "project realisation" and subject to information to the PHLG

Assuring the good use of funds for project realisation, project auditing activities in liaison with the donors' respective activities.

Establish guidelines for good procurement policy and practice, suitable for each state.

Establish in liaison with the activities of the donors an indicative priority list for infrastructure projects

**Donor Co-ordination**

Co-ordination of the donors' group (currently done by EC) with respect to infrastructure aspects

Act as an information clearing house of Donor's activities with respect to infrastructure aspects

**Information and energy outlook**

Establish demand forecast scenarios for the Energy Community in South East Europe

Monitor demand structure and development

Issue a bi-annual energy outlook report

*The ENERGY COMMUNITY Information Center*

The tasks of the ENERGY COMMUNITY Information Center are the following:

**Regional Energy Information and Techncial Center:**

To act as an information clearing house for participants to the process, statistical data should be gathered for all energy sources

To act as an information platform for the public

To act as a platform for technical co-operation for technical associations.

5.4 Method of Implementation (indicative)

Show below the method(s)[11] chosen for the implementation of the action.

x***Centralised Management***

x  Directly by the Commission

Indirectly by delegation to:

Executive Agencies

Bodies set up by the Communities as referred to in art. 185 of the Financial Regulation

National public-sector bodies/bodies with public-service mission

***Shared or decentralised management***

With Member states

With Third countries

***Joint management with international organisations (please specify)***

Relevant comments:

[11] If more than one method is indicated please provide additional details in the "Relevant comments" section of this point

## 6. MONITORING AND EVALUATION

### 6.1. Monitoring system

The institutions act under the supervision of the European Commission and the Permanent High Level Group. Activities include reports and road maps. Transparency of activities is a key requisite for the institutions' acceptance. The European Commission monitors progress ultimately itself with adequate internal measures.

Auditing is done twice, once on behalf of the Institutions, once on behalf of the European Commission independently.

### 6.2. Evaluation

#### 6.2.1. Ex-ante evaluation

The Council and the signatory states evaluate the initiative and demonstrate with their signature their commitment

#### 6.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)

The European Commission envisages to benefit from experience gained through the set up of Agencies. However no similar activity has been undertaken so far.

#### 6.2.3. Terms and frequency of future evaluation

The process is under permanent evaluation by the signatory countries and the European Commission. Once a year independent auditing is taking place.

## 7. ANTI-FRAUD MEASURES

Normal auditing provisions apply as well as the applicable legal framework on anti-fraud measures.

## 8. DETAILS OF RESOURCES

### 8.1. Objectives of the proposal in terms of their financial cost

*Commitment appropriations in EUR million (to 3 decimal places)*

| (Headings of Objectives, actions and outputs should be provided) | Type of output | Av. cost | Year n 2007 | | Year n+1 2008 | | Year n+2 2009 | | Year n+3 2010 | | Year n+4 2011 | | Year n+5 and later 2012 +2013 | | TOTAL | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | No. outputs | Total cost | No. outputs | Total cost | No. outputs | Total cost | No. outputs | Total cost | No. outputs | Total cost | No. outputs | Total cost | No. outputs | Total cost |
| OPERATIONAL OBJECTIVE No.1 [12]<br><br>Run Institutions (actions and activities see section 5.2) and the insitutions | Running an institution to monitor and pursue the implementation of the acquis communautaire in the energy community signatory countries | | | 3,477 | | 4,635 | | 5,167 | | 5,470 | | 5,582 | | 11,595 | | 35,927 |
| | Coûts pour la Communauté européenne (91,2%)<br><br>(vu que financé en co-financement) | | | **3,171** | | **4,227** | | **4,713** | | **4,989** | | **5,091** | | **10,575** | | **32,765** |
| OPERATIONAL OBJECTIVE No.2 [13]<br><br>Co-fund meetings such as PHLG and Fora | Included in total, but separately spelled out here<br><br>(details of rubrique meeting organisation/refunding below) | | | 0,3 | | 0,3 | | 0,35 | | 0,35 | | 0,35 | | 0,70 | | 2,35 |

[12] As described under Section 5.3

[13] As described under Section 5.3

Additional information:

The Institutions are financially operated via one central accounting system and one bank account to raise synergies and cost efficiency. This is why the cost of the activities is integrated in the overall running costs o the treaty institutions. See details below:

**Cost estimates Energy Community**
Institutions in total

| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|---|
| Staff | 2.438.106 | 3.223.250 | 3.602.405 | 3.710.477 | 3.821.792 | 3.936.445 | 4.054.539 |
| Total other expenditures | 1.039.000 | 1.412.000 | 1.565.000 | 1.760.000 | 1.760.000 | 1.800.000 | 1.804.000 |
| Rent | 100.000 | 130.000 | 130.000 | 200.000 | 200.000 | 200.000 | 200.000 |
| Legal and audit advice | 20.000 | 20.000 | 20.000 | 20.000 | 20.000 | 20.000 | 20.000 |
| Insurance | 7.000 | 7.000 | 10.000 | 10.000 | 10.000 | 10.000 | 10.000 |
| office needs/working material | 15.000 | 15.000 | 15.000 | 15.000 | 15.000 | 15.000 | 15.000 |
| Advertising/Marketing | 50.000 | 100.000 | 100.000 | 100.000 | 100.000 | 140.000 | 140.000 |
| Consultancy | 300.000 | 500.000 | 600.000 | 700.000 | 700.000 | 700.000 | 700.000 |
| Travel expenses | 200.000 | 270.000 | 270.000 | 270.000 | 270.000 | 270.000 | 270.000 |
| Infrastructure (tel, Fax, ..) | 17.000 | 20.000 | 20.000 | 30.000 | 30.000 | 30.000 | 34.000 |
| Seminars/courses | 10.000 | 20.000 | 20.000 | 25.000 | 25.000 | 25.000 | 25.000 |
| other | 20.000 | 30.000 | 30.000 | 40.000 | 40.000 | 40.000 | 40.000 |
| Meeting Organising/Refunding | 300.000 | 300.000 | 350.000 | 350.000 | 350.000 | 350.000 | 350.000 |
| total | 3.477.106 | 4.635.250 | 5.167.405 | 5.470.477 | 5.581.792 | 5.736.445 | 5.858.539 |

8.2. Administrative Expenditure

8.2.1. Number and type of human resources

| Types of post | | Staff to be assigned to management of the action using existing and/or additional resources (**number of posts/FTEs**) | | | | | |
|---|---|---|---|---|---|---|---|
| | | Year n<br>2007 | Year n+1<br>2008 | Year n+2<br>2009 | Year n+3<br>2010 | Year n+4<br>2011 | Year n+5 and later<br>2012+2013 |
| Officials or temporary staff[14] (XX 01 01) | A*/AD | 4 | 4 | 4 | 4 | 4 | 4 + 4 |
| | B*, C*/AST | 1<br>1 | 1<br>1 | 1<br>1 | 1<br>1 | 1<br>1 | 1 + 1<br>1 + 1 |
| Staff financed[15] by art. XX 01 02 | | Not foreseen | | | | | |
| Other staff[16] financed by art. XX 01 04/05 | | Not foreseen | | | | | |
| **TOTAL** | | 6 | 6 | 6 | 6 | 6 | 6 + 6 |

8.2.2 Description of tasks deriving from the action

- analyse political impact of the initiative

- develop the implementation policy strategy to enlarging the single energy market

- manage the process of enlarging the single energy market

- give guidance to the process and the institutions

- manage high level (international) donor co-ordination

- ensure consistency of EU-25 acquis communautaire with energy community activities

- moderate the process and the stakeholders to achieve regional optimisation

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14 Cost of which is NOT covered by the reference amount

15 Cost of which is NOT covered by the reference amount

16 Cost of which is included within the reference amount

- assist and market process in the signatory countries (pre-accession)

8.2.3 Sources of human resources (statutory)

*(When more than one source is stated, please indicate the number of posts originating from each of the sources)*

- x☐ Posts currently allocated to the management of the programme to be replaced or extended (currently 2 A posts)
- ☐ Posts pre-allocated within the APS/PDB exercise for year n
- x☐ Posts to be requested in the next APS/PDB procedure (2 A, 1 B, 1 C)
- ☐ Posts to be redeployed using existing resources within the managing service (internal redeployment)
- ☐ Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

8.2.4 Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)

*EUR million (to 3 decimal places)*

| Budget line<br>(number and heading) | Year n<br>2007 | Year n+1<br>2008 | Year n+2<br>2009 | Year n+3<br>2010 | Year n+4<br>2011 | Year n+5 and later<br>2012+2013 | TOTAL |
|---|---|---|---|---|---|---|---|
| **1 Technical and administrative assistance (including related staff costs)** | | | | | | | |
| Executive agencies[17] | | | | | | | |
| Other technical and administrative assistance | | | | | | | |
| - *intra muros* | | | | | | | |
| - *extra muros (Auditing)* | 0.02 | 0.02 | 0.03 | 0.03 | 0.03 | 0.08 | 0.21 |
| **Total Technical and administrative assistance** | 0.02 | 0.02 | 0.03 | 0.03 | 0.03 | 0.08 | 0.21 |

[17] Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

8.2.5 Financial cost of human resources and associated costs not included in the reference amount

*EUR million (to 3 decimal places)*

| Type of human resources | Year n | Year n+1 | Year n+2 | Year n+3 | Year n+4 | Year n+5 and later |
|---|---|---|---|---|---|---|
| Officials and temporary staff (XX 01 01) | 0,648 | 0,648 | 0,648 | 0,648 | 0,648 | 1,296 |
| Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line) | NA | | | | | |
| **Total cost of Human Resources and associated costs (NOT in reference amount)** | 0,648 | 0,648 | 0,648 | 0,648 | 0,648 | 1,296 |

Calculation– ***Officials and Temporary agents***

*Reference should be made to Point 8.2.1, if applicable*

*The calculation is based on the indication in 8.2.1.; 4 persons grade A and 1 grade B and 1 grade C at 108.000 €/a each. It is assumed that the internal calculatory cost remains stable over the period (no indexation).*

Calculation– ***Staff financed under art. XX 01 02***

*Reference should be made to Point 8.2.1, if applicable*

N.A.

8.2.6 Other administrative expenditure not included in reference amount

*EUR million (to 3 decimal places)*

| | Year n | Year n+1 | Year n+2 | Year n+3 | Year n+4 | Year n+5 and later | TOTAL |
|---|---|---|---|---|---|---|---|
| XX 01 02 11 01 – Missions | 0,080 | 0,080 | 0,080 | 0,080 | 0,080 | 0,16 | 0,562 |
| XX 01 02 11 02 – Meetings & Conferences | Incl. | | | | | | |
| XX 01 02 11 03 – Committees[18] | Incl | | | | | | |
| XX 01 02 11 04 – Studies & consultations | N.A. | | | | | | |
| XX 01 02 11 05 - Information systems | N.A. | | | | | | |
| **2 Total Other Management Expenditure (XX 01 02 11)** | 0,080 | 0,080 | 0,080 | 0,080 | 0,080 | 0,16 | 0,562 |
| **3 Other expenditure of an administrative nature** (specify including reference to budget line) | N.A. | | | | | | |
| **Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)** | 0,080 | 0,080 | 0,080 | 0,080 | 0,080 | 0,16 | 0,562 |

[18] Specify the type of committee and the group to which it belongs.

Calculation - ***Other administrative expenditure <u>not</u> included in reference amount***

| Internal calculatory costs<br><br>Activities | Number of meetings | Ressources/meeting | Travel costs/meeting/person | other costs | total |
|---|---|---|---|---|---|
| Ministerial | 2 | 2 | 1200 | | 4800 |
| PHLG | 6 | 2 | 1200 | | 14400 |
| energy week electricity | 1 | 3 | 1200 | | 3600 |
| Donor's meeting | 4 | 2 | 1200 | | 9600 |
| Hydrocarbon Forum | 1 | 1 | 1200 | | 1200 |
| Electricity Forum | 2 | 3 | 1200 | | 7200 |
| Gas Forum | 2 | 3 | 1200 | | 7200 |
| Secretariat Board meeting | 2 | 1 | 1200 | | 2400 |
| Preparatory Auditing meetings | 2 | 1 | 1200 | | 2400 |
| Regulatory Board meeting | 3 | 2 | 1200 | | 7200 |
| Conferences/Seminars | 2 | 1 | 1200 | | 2400 |
| Missions to countries | 15 | 1 | 1200 | | 18000 |

***The needs for human and administrative resources shall be covered within the allocation granted to the managing DG in the framework of the annual allocation procedure.***